

FILED
U.S. DISTRICT COURT
BROOKLYN DIV.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION

OCT -4 PM 3:13
CLERK R. Aush
SO. DIST. OF GA.

CAROL WILKERSON,

Plaintiff,

v.

CIVIL ACTION NO.: CV610-034

G. R. SMITH, Magistrate Judge, and
B. AVANT EDENFIELD, Judge,

Defendants.

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff filed a cause of action pursuant to the Privacy Act of 1974, 5 U.S.C. § 552a. Plaintiff names as Defendants United States Magistrate Judge G.R. Smith and United States District Judge B. Avant Edenfield.¹ According to Plaintiff, Judge Smith committed misconduct by recommending that her cause of action in Case Number CV609-133 be dismissed because she did not attach her right-to-sue letter to the complaint. Plaintiff contends that Judge Edenfield adopted Judge Smith's recommendation. Plaintiff also contends that Judges Smith and Edenfield have committed misconduct against her whenever she has filed lawsuits with this Court.

The problems with Plaintiff's Complaint are two-fold. First, the Privacy Act of 1974 "applies only to government agencies." Williams v. ALFA Ins. Agency, 349 F.

¹ Judge Smith entered a Report wherein he recommended Plaintiff's Complaint be dismissed. Because Judge Smith is a named Defendant in this case, the Court should **vacate** that Report and Recommendation.

App'x 375, 376 (11th Cir. 2009). As Defendants Smith and Edenfield are not government agencies, the Privacy Act of 1974 is inapplicable to support this Court's jurisdiction. Second, Plaintiff was advised in Wilkerson v. Statesboro Police Dep't, CV609-75, that she would be barred "from filing any more lawsuits" for six months until she posted a \$100.00 "frivolity bond[.]" and if that did not prevent her frivolous filings, "stronger remedies may be required." (CV609-75, Doc. Nos. 3, 5). Plaintiff filed this lawsuit before the expiration of this six-month period of time and did not post the requisite frivolity bond.

Plaintiff's frivolous Complaint, filed against Judges Smith and Edenfield, should be **DISMISSED** for failure to state a claim upon which relief may be granted.

SO REPORTED and RECOMMENDED, this 4th day of October, 2010.



JAMES E. GRAHAM
UNITED STATES MAGISTRATE JUDGE